

## REMARKS

### Status of the claims

Claims 1-9 are pending and presently under consideration in this application. Claims 1, 2, and 7-9 stand rejected and claims 3-6 are objected to. After entry of the amendments made herein, claims 3-10 will be pending and under consideration in this application, claims 1 and 2 having been cancelled without prejudice to their being presented in a separate application and claim 10 having been added. Claim 10 is supported by the specification (e.g., at page 10, lines 16-18, and page 13, lines 1-5) and adds no new matter.

### Priority document

As requested on page 2, lines 14-16, of the Office Action, Applicants submit herewith an English translation of the priority document.

### 35 U.S.C. §112, first paragraph, rejection

Claims 7-9 stand rejected on the grounds that they allegedly contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

From the comments on page 3, line 1, to page 4, line 3, of the Office Action, Applicants understand the Examiner's position to be that the genus of transformants specified by claim 7 is not supported by adequate written description in the instant specification. While not necessarily agreeing with this position, in order to expedite prosecution of the instant application, Applicants have amended claim 7 to specify a particular transformant. This amendment is supported by the specification (e.g., at page 10, lines 14-16). The form of claim 7 has also been amended in the interest of greater clarity. The amendments to claim 7 add no new matter.

Applicants respectfully request that, in view of the above-described amendment, the rejection under 35 U.S.C. §112, first paragraph, be withdrawn.

35 U.S.C. § 102(b) and § 103(a) rejections

Claims 1 and 2 stand rejected as allegedly being anticipated by Bonin et al., claim 1 stands rejected as allegedly being anticipated by Chang et al., and claims 1 and 2 stand rejected as allegedly being unpatentable in view of common knowledge in the art to deduce the polynucleotide sequence based on the genetic code.

Applicants respectfully submit that these rejections are moot in view of the cancellation of claims 1 and 2.

Claim objections

Claims 3-6 are objected to as being dependent on a rejected base claim.

The Examiner asserts that claims 3-6 would be allowable if rewritten in independent form including all the elements of the base claim and any intervening claims. Applicants have cancelled claim 2 (see above), on which claim 3 was dependent, and amended claim 3 to specify a particular species of the genus of claim 2, thereby implicitly "including all elements including all of the elements of the base claim." Moreover, the dependency of claim 4 on claim 2 has been deleted.

In light of these amendments, Applicants respectfully request that the objection to claims 3-6 be withdrawn.

Applicant : Ken-ichi Nakayama et al.  
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### CONCLUSION

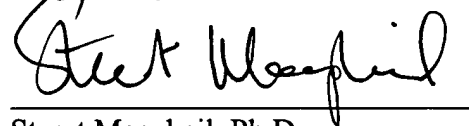
In summary, for the reasons set forth above, Applicants maintain that the pending claims patentably define the invention. Applicants request that the Examiner reconsider the rejections as set forth in the Office Action, and permit the pending claims to pass to allowance.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicants' undersigned representative can be reached at the telephone number listed below.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 11283-019US1.

Date: 4/2/04

Respectfully submitted,



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